

TITLE VI

PARTIES

RULE 60. PROPER PARTIES; CAPACITY

(a) Petitioner: (1) *Deficiency or Liability Actions:* A case shall be brought by and in the name of the person against whom the Commissioner determined the deficiency (in the case of a notice of deficiency) or liability (in the case of a notice of liability), or by and with the full descriptive name of the fiduciary entitled to institute a case on behalf of such person. See Rule 23(a)(1). A case timely brought shall not be dismissed on the ground that it is not properly brought on behalf of a party until a reasonable time has been allowed after objection for ratification by such party of the bringing of the case; and such ratification shall have the same effect as if the case had been properly brought by such party. Where the deficiency or liability is determined against more than one person in the notice by the Commissioner, only such of those persons who shall duly act to bring a case shall be deemed a party or parties.

¹(2) *Other Actions:* For the person who may bring a case as a petitioner in a declaratory judgment action, see Rules 210(b)(11), 211, and 216. For the person who may bring a case as a petitioner in a disclosure action, see Rules 220(b)(5), 221, and 225. For the person who may bring a case as a petitioner in a partnership action, see Rules 240(c)(1)(B), 240(c)(2)(B), 241, and 245. For the person who may bring a case as a petitioner in an action for administrative costs, see Rule 271. For the person who may bring a case as a petitioner in an action for review of the Commissioner's failure to abate interest, see Rule 281.

(b) Respondent: The Commissioner shall be named the respondent.

(c) Capacity: The capacity of an individual, other than one acting in a fiduciary or other representative capacity, to engage in litigation in the Court shall be determined by the law of the individual's domicile. The capacity of a corporation to engage in such litigation shall be determined by the law under which it was organized. The capacity of a fiduciary or other representative to litigate in the Court shall be determined in accordance with the law of the jurisdiction from which such person's authority is derived.

(d) Infants or Incompetent Persons: Whenever an infant or incompetent person has a representative, such as a general guardian, committee, conservator, or other like fiduciary, the representative may bring a case or defend in the Court on behalf of the infant or incompetent person. An infant or incompetent person who does not have a duly appointed representative may act by a next friend or by a guardian ad litem. Where a party attempts to represent himself or herself and, in the opinion of the Court there is a serious question as to such party's competence to do so, the Court, if it deems justice so requires, may continue the case until appropriate steps have been taken to obtain an adjudication of the question by a court having jurisdiction so to do, or may take such other action as it deems proper.

¹The amendment is effective with respect to actions for review of the Commissioner's failure to abate interest pertaining to requests for abatement after July 30, 1996.

RULE 61. PERMISSIVE JOINDER OF PARTIES

¹**(a) Permissive Joinder:** No person, to whom a notice of deficiency or notice of liability has been issued, may join with any other such person in filing a petition in the Court, except as may be permitted by Rule 34(a)(1). With respect to the joinder of parties in declaratory judgment actions, in disclosure actions, and in partnership actions, see Rules 215, 226, and 241(h), respectively.

(b) Severance or Other Orders: The Court may make such orders as will prevent a party from being embarrassed, delayed, or put to expense by the inclusion of a party, or may order separate trials or make other orders to prevent delay or prejudice; or may limit the trial to the claims of one or more parties, either dropping other parties from the case on such terms as are just or holding in abeyance the proceedings with respect to them. Any claim by or against a party may be severed and proceeded with separately. See also Rule 141(b).

¹ The amendment is effective with respect to petitions filed after August 1, 1998.

RULE 62. MISJOINDER OF PARTIES

Misjoinder of parties is not ground for dismissal of a case. The Court may order a severance on such terms as are just. See Rule 61(b).

**RULE 63. SUBSTITUTION OF PARTIES;
CHANGE OR CORRECTION IN NAME**

(a) **Death:** If a petitioner dies, the Court, on motion of a party or the decedent's successor or representative or on its own initiative, may order substitution of the proper parties.

(b) **Incompetency:** If a party becomes incompetent, the Court on motion of a party or the incompetent's representative or on its own initiative, may order the representative to proceed with the case.

(c) **Successor Fiduciaries or Representatives:** On motion made where a fiduciary or representative is changed, the Court may order substitution of the proper successors.

(d) **Other Cause:** The Court, on motion of a party or on its own initiative, may order the substitution of proper parties for other cause.

(e) **Change or Correction in Name:** On motion of a party or on its own initiative, the Court may order a change of or correction in the name or title of a party.